

REMARKS

Reconsideration of the present application is respectfully requested in view of the following remarks. Prior to entry of this response, Claims 1-18 were pending in the application, of which Claim 1 is independent. In the Office Action dated February 7, 2007, Claim 10 was rejected under 35 U.S.C. § 112, Claim 17 was rejected under 35 U.S.C. §101, Claims 1-2 and 17-18 were rejected under 35 U.S.C. § 102(e), and Claims 3-16 were rejected under 35 U.S.C. § 103(a). Following this response, Claims 1-16 and 19-20 remain in this application with Claims 17-18 being canceled without prejudice or disclaimer and new Claims 19-20 being added by this amendment. Applicants hereby address the Examiner's rejections in turn.

I. Objection to the Specification

In the Office Action dated February 7, 2007, the Examiner objected to the specification because various informalities. The specification has been amended, and Applicant respectfully submits that the amendments overcome this objection and add no new matter.

II. Rejection of Claim 10 Under 35 U.S.C. § 112, Second Paragraph

In the Office Action, the Examiner rejected Claim 10 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as their invention. Claim 10 has been amended, and Applicant respectfully submits that the amendment overcomes this rejection and adds no new matter.

III. Rejection of Claim 17 Under 35 U.S.C. § 101

In the Office Action, the Examiner rejected Claim 17 under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Claim 17 has been canceled without prejudice or disclaimer rendering this rejection moot.

IV. Rejection of Claims 1-2 and 17-18 Under 35 U.S.C. § 102(e)

In the Office Action, the Examiner rejected Claims 1-2 and 17-18 under 35 U.S.C. § 102(e) as being anticipated by U.S. Pat. Pub. No. 2003/0137539 ("*Dees*"). Claim 1 has been amended, and Applicants respectfully submit that the amendment overcomes this rejection and adds no new matter.

Amended Claim 1 is patentably distinguishable over the cited art for at least the reason that it recites, for example, "displaying the menu, wherein the menu definition file and the view definition file are updateable without requiring any modification to an underlying program code for displaying the menu." Support for this amendment can be found in the specification at least on page 2, lines 9-15.

In contrast, *Dees* at least does not disclose the aforementioned recitation. For example, *Dees* merely discloses a storage medium 200 on which a user interface definition document 210, a first style sheet document 211, and a second style sheet document 212 are stored. (See paragraph [0035].) In *Dees*, a user interface module 420 processes user interface definition document 210 and finds a reference to first style sheet document 211. (See paragraph [0051].) User interface module 420, in *Dees*, causes networking module 410 to download first style sheet document 211 from a server 101. (See paragraph [0051].) Having downloaded user interface definition document 211, networking module 410 feeds user interface definition document 211 to

user interface module 420. (See paragraph [0051].) User interface module 420 then uses the style information contained in user interface definition document 211 to generate the user interface. (See paragraph [0051].) While *Dees* discloses that user interface module 420 finds the reference to first style sheet document 211 in user interface definition document 210, *Dees* is silent regarding updating the menu definition file and the view definition file. Consequently, *Dees* does not disclose updating a menu definition file and a view definition file without requiring any modification to an underlying program code for displaying the menu.

Dees does not anticipate the claimed invention because *Dees* at least do not disclose "displaying the menu, wherein the menu definition file and the view definition file are updateable without requiring any modification to an underlying program code for displaying the menu," as recited by Amended Claim 1. Accordingly, independent Claim 1 patentably distinguishes the present invention over the cited art, and Applicant respectfully requests withdrawal of this rejection of Claim 1.

Dependent Claims 2-16 are also allowable at least for the reasons described above regarding independent Claim 1 and by virtue of their dependency upon independent Claim 1. Accordingly, Applicant respectfully requests withdrawal of this rejection of dependent Claims 2-16.

V. Rejection of the Claims Under 35 U.S.C. § 103(a)

In the Office Action, the Examiner rejected Claims 3-16 under 35 U.S.C. § 103(a) as being unpatentable over *Dees* in view of U.S. Pat. Pub. No. 2002/0112237 ("*Kelts*"). Applicant respectfully submits that this rejection is moot at least in view of the above remarks.

Regarding Claim 10, the Examiner merely states that it is inherent that one or more menu items may comprise an item or a folder. In addition, the Examiner merely states that this inherency exists because, according to the Examiner, a menu item is an item. (See Office Action, page 9, lines 7-9.) In addition, the Examiner stated that various claim recitations in Claims 1, 5, 6, 7, and 8 are inherent. Applicant respectfully submits that inherency requires inevitably. Thus, to be inherent the alleged result must be inevitable from the operation disclosed or the inherent characteristic must be inevitably present in the device. (See *Akamai Technologies, Inc. v. Cable & Wireless Internet Serv., Inc.*, 344 F.3d 1186, 1192, 68 USPQ2d 1186, 1190 (Fed. Cir. 2003) ("A claim limitation is inherent in the prior art if it is necessarily present in the prior art, not merely probably or possibly present.") Applicant respectfully submits that, even if the Examiner's contention were true, it is not inevitable from *Dees* that one or more menu items may comprise an item or a folder. Furthermore, "[i]n relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art." (See *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990); MPEP 2112(IV).) As a result, Applicant respectfully asserts that the Examiner has failed to make a *prima facie* case of obviousness regarding Claims 1, 5, 6, 7, 8, and 10 because the Examiner fails to provide a basis in fact and/or technical reasoning to support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art. Moreover, in order to make a *prima facie* case of obviousness, the Examiner must set forth prior art which teach or suggest every claim limitation. (See MPEP § 2143.)

VI. New Claims

Claims 19-20 have been added by this amendment. Applicant respectfully submits that these claims are allowable over the cited art and that they add no new matter.

VII. Conclusion

In view of the foregoing remarks, Applicant respectfully requests the reconsideration and reexamination of this application and the timely allowance of the pending claims. The preceding arguments are based only on the arguments in the Office Action, and therefore do not address patentable aspects of the invention that were not addressed by the Examiner in the Office Action. The claims may include other elements that are not shown, taught, or suggested by the cited art. Accordingly, the preceding argument in favor of patentability is advanced without prejudice to other bases of patentability. Furthermore, the Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicant declines to automatically subscribe to any statement or characterization in the Office Action.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 13-2725.

Respectfully submitted,
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